HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 16148 OF 2003

Between:

K. Subhash

…Petitioner

AND

C.P.D.C.L of Andhra Pradesh,
Rep., by its Managing Director,
Hyderabad and two others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri B. Venkata Rama Rao

Counsel for respondent Nos.1&2 : Shri O. Manohar Reddy

August 22, 2007

In this petition, the petitioner has prayed for issue a mandamus to respondent Nos. 1 and 2 to restore the existing service connection in respect of the building constructed by him in premises bearing No.9-14, Plot No. 109, Survey No. 712/2 situated at Venkateswara Nagar, Malkajgiri Mandal, Ranga Reddy District and also to release new connections.

In the affidavit filed by him, the petitioner has made a reference to the development agreement dated 30.1.2002 entered with the owner of the premises, Smt. A. Komala, wife of Sri A.C. Narasimha Rao (respondent No. 3), General Power of Attorney executed by her and averred that respondent No. 2 has illegally refused to restore the existing service and sanction new connection on the ground of existence of dispute between him and respondent No. 3. He has also referred to the suit for mandatory injunction filed by respondent No.3 in the Court of Principal Junior Civil Judge (E&N), Ranga Reddy District which stands registered as O.S.No.730 of 2003 and is pending adjudication and averred that the application for temporary injunction filed by her was dismissed by the trial Court. He has further averred that without giving any notice, respondent No.2 discontinued the supply of electricity to the existing connection and also refused to receive applications for new connections. The petitioner has then made a reference to O.S.No.1081 of 2003 filed by him in the Court of Junior Civil Judge (E&N), Ranga Reddy District against respondent No.3 for grant of injunction and averred that even though he is prepared to pay for restoration of the existing connection and also for new connections, respondent No.2 has arbitrarily refused to entertain his request.

The stand taken by respondent No.2 is that the petitioner is neither an existing consumer nor he approached any competent

authority for restoration of the connection or grant of new connections. According to respondent No.2, service connection No.2804-00491 was in the name of Sri A.C.Narasimha Rao, husband of respondent No.3 who got the same dismantled in July, 2003 and that the petitioner did not apply for new connection. It is also the case of respondent No.2 that application made by one T.S. Prabhakar Rao was rejected on account of pendency of dispute between the owner of the premises and the builder.

In her affidavit, respondent No.3 has averred that she has cancelled the development agreement and general power of attorney and, therefore, the petitioner does not have the locus to seek restoration of the supply of electricity or get the new connections.

I have heard learned counsel for the parties and perused the record.

The petitioner has not denied the assertion of respondent No.3 that she had cancelled the development agreement and general power of attorney on the ground of violation of the conditions incorporated therein and then filed suit for permanent and mandatory injunction which stands registered as O.S No. 730 of 2003 on the file of Principal Junior Civil Judge, Ranga Reddy District which is pending adjudication. An order of injunction dated 25-4-2003 is also stated to have been passed in I.A No. 146 of 2003 restraining the petitioner from alienating the disputed property. On his part, the petitioner also filed suit for injunction in the Court of Junior Civil Judge (E & N), Ranga Reddy District for restraining respondent No.3 from interfering with his possession over the suit property and the same is pending as O.S No. 1081 of 2003. This shows that there are serious disputes between the parties in regard to the status of the construction and both i.e., petitioner and respondent No. 3, are litigating in the Court. Therefore, I do not find any valid ground or justification to entertain the petitioner's prayer for issue of a mandamus to respondent No.2 to restore the old

service connection.

It is also borne out from the record that during the pendency of litigation, the petitioner transferred different portions of the constructed building (Swathi Plaza) to third parties. One of them, viz., Shri T.S. Prabhakara Rao filed an application for issue of new connection, but his request was turned down by respondent No.2 vide letter dated 18-7-2003 on the ground of pendency of dispute relating to the property in question. It is also borne out from the record that WPMP No. 20005 of 2003 filed by the petitioner was disposed of by this Court on 11-9-2003 by directing respondent Nos. 1 and 2 to give power connection to the buyers of the flats. That order reads as under:

> "The internal squabbles between the owner and the developer is the main reason for the litigation. In fact, the grievance is not for the landowner, respondent No.3 or the petitioner. Of course, there are certain obligations to be performed by the petitioner as well as the 3rd respondent in favour of the buyers of the flats after construction and after registration. The right of the buyer to have minimum facilities like water and electricity cannot be denied. Because of the internal disputes between the petitioner and the 3rd respondent-land owner, the ultimate losers are the buyers or the prospective buyer of the flats, who invest considerable amounts to own them.
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> Obviously, on a representation made by the 3rd respondent, the power supply is denied to the entire edifice consisting of several flats. It is common knowledge that the prospective buyer with all his savings would invest on the flat to have an abode of his own and by virtue of the disputes between the owner and the developer, many of the obligations of both the owner and the developer are not being complied with and the ultimate victims would be the buyers. The general plight of the buyers cannot be ignored.
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> In the circumstances, pending disposal of the writ petition, not withstanding the obligations to be complied with by the 3rd respondent or the petitioner, respondents 1 and 2 are directed to give power connection to the concerned flat, if any application is made by any buyer on payment of necessary charges subject to the condition that the flat is registered.
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> The W.P.M.P is accordingly ordered with a further direction to the writ petitioner and the 3rd respondent to pay costs of Rs.5,000/- (Rupees Five Thousand only) each, to each such buyer, for the

inconvenience caused to them."

Learned counsel for the petitioner tried to convince the Court that notwithstanding the pendency of dispute in the civil court, the petitioner is entitled to get service connection in respect of the building constructed by him and is also entitled to restoration of the original connection, but I am not felt impressed.

It is not in dispute that service connection No.2804-00491 (original number) was in the name of Shri A.C. Narasimha Rao, (husband of respondent No.3) who got the same disconnected by making appropriate application to the competent authority. The petitioner has neither impleaded Shri A.C. Narasimha Rao as party to the writ petition nor any relief has been claimed against him. Therefore, his prayer for issue of mandamus for restoration of the service connection cannot be entertained. The other prayer of the petitioner for providing new connection is liable to be rejected because the material produced before the Court shows that the flats constructed by him have been sold and in terms of the interim order passed by the Court, the purchasers have become entitled to get connection on payment of the prescribed charges.

In the result, the writ petition is dismissed.

G.S. SINGHVI, CJ

August 22, 2007

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